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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-378**

12 **RACHEL MARA CARTER**
13 **15511 Ridgcrest Lane**
Chino Hills, CA 91709

A C C U S A T I O N

14 **Registered Nurse License No. 530256**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about February 26, 1997, the Board of Registered Nursing (Board) issued
23 Registered Nurse License Number 530256 to Rachel Mara Carter (Respondent). The Registered
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and
25 will expire on July 31, 2010, unless renewed.

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1 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
2 defined in Section 4022.

3 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
4 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
5 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
6 himself or herself, any other person, or the public or to the extent that such use impairs his or her
7 ability to conduct with safety to the public the practice authorized by his or her license."

8 CONTROLLED SUBSTANCE/DANGEROUS DRUG

9 8. Dilaudid (trade name for Hydromorphone Hydrochloride) is a Schedule II controlled
10 substance as designated by Health and Safety Code section 11055, subdivisions (a) and (d), and is
11 a dangerous drug as defined in section 4022.

12 9. Section 4022 states, in pertinent part:

13 "'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use in
14 humans or animals, and includes the following:

15 "(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without a
16 prescription,' 'Rx only,' or words of similar import.

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18 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
19 prescription or furnished pursuant to Section 4006."

20 COST RECOVERY PROVISION

21 10. Section 125.3 provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licensee found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case.

25 FIRST CAUSE FOR DISCIPLINE

26 (Disciplinary Action by Another State)

27 11. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4), in
28 that she was disciplined by the Oregon State Board of Nursing (Oregon Board), as follows:

1 a. On or about May 16, 2008, in the disciplinary action entitled *In the Matter of Rachel*
2 *Mara Carter, RN*, the Oregon Board accepted the voluntary surrender of Respondent's Registered
3 Nurse License and adopted the Stipulation for Voluntary Surrender of Registered Nurse License
4 (Stipulation) signed by Respondent on or about April 10, 2008.

5 b. As set forth in the Stipulation, the Oregon Board received a report that Respondent
6 was suspected of diverting narcotics from her workplace. In the Stipulation, Respondent admitted
7 "that she was careless, did not properly document and had not followed proper procedure for her
8 waste of narcotics although she knew and understood the waste process. She also admitted to not
9 using gloves to start IVs"

10 c. In the Stipulation, Respondent admitted that her conduct constituted violations of,
11 including but not limited to, Oregon Revised Statutes (ORS) section 678.111, subdivision (1)(f)
12 [conduct derogatory to the standards of nursing], and Oregon Administrative Rules (OAR), rule
13 851-045-0015, subdivisions (1)(a) [developing, modifying, or implementing standards of nursing
14 practice/care which jeopardize patient safety], (1)(b) [failing to take action to preserve or promote
15 the client's safety based on nursing assessment and judgment], (3)(a) [inaccurate recordkeeping in
16 client or agency records], (3)(b) [incomplete recordkeeping regarding client care], and (4)(b)
17 [failing to conform to the essential standards of acceptable and prevailing nursing practice].

18 SECOND CAUSE FOR DISCIPLINE

19 (Obtain or Possess in Violation of Law or Administer to Herself a Controlled Substance)

20 12. Respondent is subject to disciplinary action under section 2762, subdivision (a), in
21 that she obtained or possessed in violation of law, and/or administered to herself without a
22 prescription, a controlled substance/dangerous drug.

23 13. On or about March 26, 2009, Respondent enrolled in the Board's Diversion Program
24 (Program). In connection with her enrollment in the Program, Respondent admitted to the
25 following facts:

26 a. After stipulating to surrender her Registered Nurse License in Oregon, as referenced
27 above in paragraph 11.a, Respondent returned to California to practice nursing.

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1 b. In or about April 2008, Respondent began working as a nurse at San Antonio
2 Hospital in Upland, California. Respondent diverted opiates, including Dilaudid, while she was
3 employed at San Antonio Hospital. Respondent diverted Dilaudid for her own personal use.

4 THIRD CAUSE FOR DISCIPLINE

5 (Dangerous or Injurious Use of Controlled Substance or Use that Impairs Ability to Practice)

6 14. Respondent is subject to disciplinary action under section 2762, subdivision (b), in
7 that she used a controlled substance/dangerous drug to an extent or in a manner dangerous or
8 injurious to herself, any other person, or the public, and/or to the extent that such use impaired her
9 ability to conduct with safety to the public the practice authorized by her license. The
10 circumstances are as follows:

11 For a period of several months, beginning in or about April or May 2008, Respondent
12 used Dilaudid that she diverted from her employer, San Antonio Hospital. Complainant refers to
13 and incorporates all the allegations set forth in paragraphs 13.a through 13.b., inclusive, as though
14 set forth fully.

15 DISCIPLINARY CONSIDERATIONS

16 15. On or about March 26, 2009, Respondent enrolled in the Board's Diversion Program.
17 On or about October 9, 2009, Respondent was terminated from the Program as a public safety
18 risk and for failure to comply with provisions of the Program's rehabilitation plan.

19 PRAYER

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 530256, issued to
23 Respondent;

24 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
25 enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: 2/9/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
State of California
Complainant

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